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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2020-0122; FRL-10014-19-Region 9]

Air Plan Approval; California; Butte County; El Dorado County; Mojave Desert Air Quality Management District; San Diego County; Ventura County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve revisions to the Butte County Air Quality Management District (BCAQMD), El Dorado County Air Quality Management District (EDCAQMD), Mojave Desert Air Quality Management District (MDAQMD), San Diego County Air Pollution Control District (SDCAPCD) and Ventura County Air Pollution Control District (VCAPCD) portions of the California State Implementation Plan (SIP). These revisions concern rules that include definitions for certain terms that are necessary for the implementation of local rules that regulate sources of air pollution. We are approving the definitions rules under the Clean Air Act (CAA or the Act).

DATES: This rule will be effective on [Insert date 30 days after date of publication in the *Federal Register*].

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R09-OAR-2020-0122. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be

publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Arnold Lazarus, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 972-2304 or by email at Lazarus.arnold@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us” and “our” refer to the EPA.

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I. Proposed Action

On July 6, 2020 (85 FR 40156), the EPA proposed to approve the five amended rules listed in Table 1 as revisions to the California SIP. With respect to BCAQMD Rule 102, we determined that the State had not provided sufficient public process documentation to provide the basis for a rescission of the rule from the applicable SIP, but we recognized that, because the remaining definitions in BCAQMD Rule 102 had been moved to BCAQMD Rule 101 and because we are approving BCAQMD Rule 101, there is no reason to retain BCAQMD Rule 102

in the applicable SIP.

Table 1 – SUBMITTED RULES

Local Agency	Rule #	Rule Title	Rescinded	Amended /Revised	Submitted
BCAQMD	101	Definitions	12/14/2017 ²	12/14/2017	5/23/2018 ¹
BCAQMD	102	Definitions			5/23/2018 ³
EDCAQMD	101	General Provisions and Definitions		6/20/2017	8/9/2017
MDAQMD	102	Definition of Terms		1/28/2019	8/19/2019 ⁴
SDCAPCD	2	Definitions		7/11/2017	11/13/2017
VCAPCD	2	Definitions		4/9/2019	8/19/2019 ⁵

We proposed to approve these rules because we determined that they comply with the relevant CAA requirements. Our proposed action and related technical support documents (TSDs) contain more information on the rules and our evaluation.

II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period. During this period, we received a comment letter from a member of the public who expressed support for the proposed rulemaking.

¹ CARB submitted the amendment to BCAQMD Rule 101 electronically on May 23, 2018. CARB's submittal letter is dated May 18, 2018.

² The BCAQMD amended Rule 101 on this date but took no action on Rule 102. The date is from Enclosure A to CARB Executive Order S-18-004, May 18, 2018, which is included in CARB's May 23, 2018 SIP submittal.

³ CARB submitted the rescission of BCAQMD Rule 102 electronically on May 23, 2018. CARB's submittal letter is dated May 18, 2018.

⁴ CARB submitted the amendment to MDAQMD Rule 102 electronically on August 19, 2019. CARB's submittal letter is dated August 16, 2019.

⁵ CARB submitted the amendment to VCAPCD Rule 2 electronically on August 19, 2019. CARB's submittal letter is dated August 16, 2019.

III. EPA Action

No comments were submitted that change our assessment of the rules as described in our proposed action. Therefore, as authorized in section 110(k)(3) of the Act, the EPA is fully approving these rules into the California SIP. Our final action includes regulatory text in 40 CFR 52.220 that incorporates by reference the amended rules listed in Table 1 above, and identifies the previously approved rules that are being superseded in the California SIP by the approval of the amended rules. We are also including regulatory text that specifically identifies the remaining definitions in BCAQMD Rule 102 (“Definitions”) that were superseded by our approval in 2015 of BCAQMD Rule 300 (“Open Burning Requirements, Prohibitions and Exemptions”)⁶ and the remaining definitions that are being superseded by today’s approval of amended BCAQMD Rule 101.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the BCAQMD’s, the EDAQMD’s, the MDAQMD’s, the SDCAPCD’s and the VCAPCD’s rules described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents available through *www.regulations.gov* and at the EPA Region IX Office (please contact the person identified in the “**FOR FURTHER INFORMATION CONTACT**” section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that

⁶ We approved BCAQMD Rule 300 at 80 FR 38966 (July 8, 2015).

complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 3, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: October 16, 2020.

John Busterud,
Regional Administrator,
Region IX.

For the reasons stated in the preamble, the EPA amends, part 52, Chapter I, Title 40 of the Code of Federal Regulations as follows:

PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F – California

2. Section 52.220 is amended by adding paragraphs (c)(168)(i)(A)(11) and (12), (c)(280)(i)(B)(3), (c)(404)(i)(C)(3), (c)(457)(i)(C)(7), (c)(488)(i)(A)(5), (c)(503)(i)(C), (c)(516)(i)(B), (c)(518)(i)(B), (c)(520)(i)(A)(2) and (c)(542) to read as follows:

§ 52.220 Identification of plan-in part.

*	*	*	*	*
(c)	*	*	*	
(168)	*	*	*	
(i)	*	*	*	
(A)	*	*	*	

(11) Previously approved on February 3, 1987 in paragraph (c)(168)(i)(A)(1) of this section and now deleted with replacement in paragraph (c)(423)(i)(G)(1), Rule 102

“Definitions”: the definitions for “approved ignition devices,” “open out-door fire”, “permissive burn day” and “range improvement burning.”

(12) Previously approved on February 3, 1987 in paragraph (c)(168)(i)(A)(1) of this section and now deleted with replacement in paragraph (c)(518)(i)(B)(1), Rule 102

“Definitions”: the definitions for “submerged fill pipe” and “vapor recovery system”.

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(280) * * *

(i) * * *

(B) * * *

(3) Previously approved on October 10, 2001 in paragraph (c)(280)(i)(B)(2) of this section and now deleted with replacement in paragraph (c)(503)(i)(C)(1), Rule 101, adopted on February 15, 2000.

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(404) * * *

(i) * * *

(C) * * *

(3) Previously approved on December 7, 2012 in paragraph (c)(404)(i)(C)(1) of this section and now deleted with replacement in paragraph (c)(542)(i)(B)(1), Rule 2, “Definitions,” revised on October 22, 1968, as revised through April 12, 2011.

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(457) * * *

(i) * * *

(C) * * *

(7) Previously approved on June 11, 2015 in paragraph (c)(457)(i)(C)(1) of this section and now deleted with replacement in paragraph (c)(518)(i)(B)(1), Rule 101, “Definitions,”

amended on April 24, 2014.

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(488) * * *

(i) * * *

(A) * * *

(5) Previously approved on June 21, 2017 in paragraph (c)(488)(i)(A)(I) of this section and now deleted with replacement in (c)(516)(i)(B)(I), Regulation 1, Rule 2, “Definitions,” Rev. Adopted and Effective on June 30, 1999, Table 1—Exempt Compounds: Rev. and Effective on June 14, 2016.

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(503) * * *

(i) * * *

(C) El Dorado County Air Quality Management District.

(I) Rule 101, “General Provisions and Definitions,” amended on June 20, 2017.

(2) [Reserved]

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(516) * * *

(i) * * *

(B) San Diego County Air Pollution Control District.

(I) Rule 2, “Definitions,” amended on July 11, 2017.

(2) [Reserved]

* * * * *

(518) * * *

(i) * * *

(B) Butte County Air Quality Management District.

(I) Rule 101, “Definitions,” amended on December 14, 2017.

(2) [Reserved]

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(520) * * *

(i) * * *

(A) * * *

(2) Previously approved on July 2, 2019 in paragraph (c)(520)(i)(A)(I) of this section and now deleted with replacement in paragraph (c)(542)(i)(A)(I), Rule 102, “Definition of Terms,” amended on April 23, 2018.

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(542) New regulations for the following APCDs were submitted on August 19, 2019 by the Governor’s designee as an attachment to a letter dated August 16, 2019.

(i) *Incorporation by reference.* (A) Mojave Desert Air Quality Management District.

(I) Rule 102, “Definition of Terms,” amended on January 28, 2019.

(2) [Reserved]

(B) Ventura County Air Pollution Control District.

(I) Rule 2, “Definitions,” as amended through April 9, 2019.

(2) [Reserved]

(ii) [Reserved]

[FR Doc. 2020-23551 Filed: 11/10/2020 8:45 am; Publication Date: 11/12/2020]